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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,318	08/22/2001	David Dale Ricke	CHA920010008US2	1462

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EXAMINER

KENDALL, CHUCK O

ART UNIT PAPER NUMBER

2192

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/935,318	<b>Applicant(s)</b> RICKE, DAVID DALE	
	<b>Examiner</b> Chuck O. Kendall	<b>Art Unit</b> 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5 - 29 is/are pending in the application.  
4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 - 22 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 - 12, and 23 - 29 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the application filed 01/11/06.
2. Claims 1 – 3, & 5 – 29 have been examined.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. The invention as disclosed in claims 1 – 12 and 23 – 29 is directed to non-statutory subject matter.

Claims 1 – 12, and 23 – 29, Applicant's claims are drawn to a framework/advisory tool which although are functionally descriptive, however functionally descriptive material per se are non statutory, see Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759. When functionally descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

### ***Allowable Subject Matter***

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5. The following is a statement of reasons for the indication of allowable subject matter.

The prior art of record does not teach or fairly suggest at least the following limitations as recited in claims 1 – 3, & 5 – 29.

“wherein each cloud describes a set of all possible configurations that can fulfill a predetermined function that the cloud represents; and a system for combining the information managed in the knowledge basis to generate an information technology design solution including a set of network units” as disclosed in claims 1 – 3 and 5 – 12.

“A fourth knowledge base that manages information regarding sets of all possible configuration that can fulfill a predetermined functions, wherein each set comprises a cloud; and a design interface system for generating the IT solution, comprising:

a system for specifying the solution using a first cloud; a system for replacing the first cloud with a set of second clouds;

a system for replacing the a select cloud with at least one configuration; a system for replacing a selected configuration with at least one network unit; and a system for replacing a generic network unit with a specific network unit ”, as disclosed in claims 13 – 22.

and

“ a cloud knowledge base that includes a plurality of clouds, wherein each cloud provides a set of all possible configurations that can fulfill a predetermined function that the cloud represents, and wherein each configuration includes a valid set of network units, and wherein each network unit comprises a set of compatible characteristics; and

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a system for designing a solution using clouds selected from the cloud knowledge base", as disclosed in claims 23 – 29.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1 – 3, & 5 – 29 have been considered but are moot in view of the new ground(s) of rejection.

### **Correspondence information**

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-272-3698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ck.

*Chameli C. Das*  
**CHAMELI C. DAS**  
**PRIMARY EXAMINER**

*4/3/06*